

ASSEMBLY BILL

No. 2501

**Introduced by Assembly Members Bloom and Low
(Coauthor: Assembly Member Daly)**

February 19, 2016

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as introduced, Bloom. Housing: density bonuses.

Existing law, the Planning and Zoning Law, requires, when an applicant proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low-, low-, or moderate-income households or qualifying residents. Existing law requires continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus.

This bill would require the local government to make a written determination on whether the applicant's application is complete within 30 calendar days of receipt, and to make the determination on an application for a density bonus within 60 calendar days of receipt of a completed application. The bill would further provide an applicant with appeal rights under specified circumstances. By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would prohibit a local government from requiring an additional

fee or additional reports or studies to be prepared by the developer as a condition of the application. The bill would additionally require each component of any density calculation that results in fractional units to be rounded up to the next whole number, and would provide that this provision is declaratory of existing law.

Existing law defines the term “density bonus” for these purposes to mean a density increase over the otherwise maximum allowable residential density as of the date of the application and provides that the applicant may elect to accept a lesser percentage of density bonus.

This bill would specify that the term “density bonus” means a density increase over the maximum allowable gross residential density at the time of the date of the application, and would provide that an applicant may elect to accept no density bonus. The bill would additionally provide that the term “density bonus” includes any incentive or concession, or waiver or reduction of development standard, provided to the applicant for the production of housing units and child care facilities, as provided.

Existing law requires a local government to provide the applicant for a density bonus with incentives or concessions for the production of housing units and child care facilities, as specified.

The bill would additionally require the local government to provide the applicant with a waiver or reduction of development standards, as specified.

Existing law requires a local government to grant a proposal for specific incentives or concessions requested by an applicant unless the local government makes written findings, based on substantial evidence, that, among others, the concession or incentive is not required in order to provide affordable housing costs or for rents for the targeted units, as specified.

This bill would, instead, provide that the local government is required to provide the requested concessions or incentives unless it finds, based on substantial evidence, that the concession or incentive does not reduce the cost of development to provide for affordable housing costs or rents for the targeted units.

Existing law defines the term “housing development” for these purposes to mean a development project for five or more residential units.

This bill would expand that definition to include mixed-use housing, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65915 of the Government Code is
2 amended to read:

3 65915. (a) (1) When an applicant seeks a density bonus for
4 a housing development within, or for the donation of land for
5 housing within, the jurisdiction of a city, county, or city and county,
6 that local government shall provide the applicant with ~~incentives~~
7 ~~or incentives~~, concessions, or waiver and reduction of development
8 standards for the production of housing units and child care
9 facilities as prescribed in this section. All cities, counties, or cities
10 and counties shall adopt an ordinance that specifies how
11 compliance with this section will be implemented. *The ordinance*
12 *shall specify all the information and documents, consistent with*
13 *this chapter, that shall be submitted with the application for a*
14 *density bonus.* Failure to adopt an ordinance shall not relieve a
15 city, county, or city and county from complying with this section.
16 *The local government shall not require public notice or hold a*
17 *public hearing on the application. Acting on the application shall*
18 *be considered a ministerial act.*

19 (2) *A local government shall not condition the submission of*
20 *an application for a density bonus pursuant to this chapter on the*
21 *payment of an additional fee or preparation of any additional*
22 *report or study that is not otherwise required by any other*
23 *applicable law.*

24 (3) (A) *The local government shall, within 30 calendar days*
25 *following receipt of the application, make a written determination*
26 *of whether the application for a density bonus is complete and*
27 *shall transmit that determination to the applicant. If the written*
28 *determination is not made within 30 calendar days of receipt of*
29 *the application, the application shall be deemed complete for*
30 *purposes of this section. If the application is determined to be*

1 *incomplete, the determination shall include a list and thorough*
2 *description of the specific information needed to complete the*
3 *application. An applicant may appeal the decision in writing to*
4 *the administrator of the department. The local government shall*
5 *make a decision on the appeal within 15 calendar days of receipt*
6 *of the appeal. An applicant shall have the right to appeal the*
7 *decision on the first appeal to the governing body of the local*
8 *government. A decision shall be made by the governing body within*
9 *15 calendar days.*

10 *(B) If the application was determined incomplete pursuant to*
11 *subparagraph (A), the applicant may resubmit the application in*
12 *complete form. The local government shall make a written*
13 *determination, within 10 business days of receipt of the resubmittal,*
14 *of whether the application is complete after resubmittal. If a written*
15 *determination is not made within 10 business days, the application*
16 *shall be deemed complete for purposes of this section. This*
17 *subparagraph shall apply to all subsequent resubmittals after a*
18 *written determination that the application is incomplete. An*
19 *applicant may appeal the decision in writing to the administrator*
20 *of the planning department. The local government shall make a*
21 *decision on the appeal within 15 calendar days of receipt of the*
22 *appeal. An applicant shall have the right to appeal the decision*
23 *on the first appeal to the governing body of the local government.*
24 *A decision shall be made by the governing body within 15 calendar*
25 *days.*

26 *(C) The local government shall, within 60 days of determining*
27 *an application is complete, act to approve or disapprove the density*
28 *bonus, or inform the applicant in writing as to the reason for*
29 *refusing to grant the request. A decision made pursuant to this*
30 *subparagraph shall constitute a final decision on the application.*
31 *If a local government fails to act to approve or disapprove the*
32 *application within 60 days, the application shall be deemed*
33 *approved.*

34 *(b) (1) A city, county, or city and county shall grant one density*
35 *bonus, the amount of which shall be as specified in subdivision*
36 *(f), and incentives or concessions, as described in subdivision (d),*
37 *when an applicant for a housing development seeks and agrees to*
38 *construct a housing development, excluding any units permitted*
39 *by the density bonus awarded pursuant to this section, that will*
40 *contain at least any one of the following:*

1 (A) Ten percent of the total units of a housing development for
2 lower income households, as defined in Section 50079.5 of the
3 Health and Safety Code.

4 (B) Five percent of the total units of a housing development for
5 very low income households, as defined in Section 50105 of the
6 Health and Safety Code.

7 (C) A senior citizen housing development, as defined in Sections
8 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
9 residency based on age requirements for housing for older persons
10 pursuant to Section 798.76 or 799.5 of the Civil Code.

11 (D) Ten percent of the total dwelling units in a common interest
12 development, as defined in Section 4100 of the Civil Code, for
13 persons and families of moderate income, as defined in Section
14 50093 of the Health and Safety Code, provided that all units in the
15 development are offered to the public for purchase.

16 (2) For purposes of calculating the amount of the density bonus
17 pursuant to subdivision (f), an applicant who requests a density
18 bonus pursuant to this subdivision shall elect whether the bonus
19 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)
20 of paragraph (1).

21 (3) For the purposes of this section, “total units” or “total
22 dwelling units” does not include units added by a density bonus
23 awarded pursuant to this section or any local law granting a greater
24 density bonus.

25 (c) (1) An applicant shall agree to, and the city, county, or city
26 and county shall ensure, the continued affordability of all very low
27 and low-income rental units that qualified the applicant for the
28 award of the density bonus for 55 years or a longer period of time
29 if required by the construction or mortgage financing assistance
30 program, mortgage insurance program, or rental subsidy program.
31 Rents for the lower income density bonus units shall be set at an
32 affordable rent as defined in Section 50053 of the Health and Safety
33 Code.

34 (2) An applicant shall agree to, and the city, county, or city and
35 county shall ensure that, the initial occupant of all for-sale units
36 that qualified the applicant for the award of the density bonus are
37 persons and families of very low, low, or moderate income, as
38 required, and that the units are offered at an affordable housing
39 cost, as that cost is defined in Section 50052.5 of the Health and
40 Safety Code. The local government shall enforce an equity sharing

1 agreement, unless it is in conflict with the requirements of another
2 public funding source or law. The following apply to the equity
3 sharing agreement:

4 (A) Upon resale, the seller of the unit shall retain the value of
5 any improvements, the downpayment, and the seller's proportionate
6 share of appreciation. The local government shall recapture any
7 initial subsidy, as defined in subparagraph (B), and its proportionate
8 share of appreciation, as defined in subparagraph (C), which
9 amount shall be used within five years for any of the purposes
10 described in subdivision (e) of Section 33334.2 of the Health and
11 Safety Code that promote home ownership.

12 (B) For purposes of this subdivision, the local government's
13 initial subsidy shall be equal to the fair market value of the home
14 at the time of initial sale minus the initial sale price to the
15 moderate-income household, plus the amount of any downpayment
16 assistance or mortgage assistance. If upon resale the market value
17 is lower than the initial market value, then the value at the time of
18 the resale shall be used as the initial market value.

19 (C) For purposes of this subdivision, the local government's
20 proportionate share of appreciation shall be equal to the ratio of
21 the local government's initial subsidy to the fair market value of
22 the home at the time of initial sale.

23 (3) (A) An applicant shall be ineligible for a density bonus or
24 any other incentives or concessions under this section if the housing
25 development is proposed on any property that includes a parcel or
26 parcels on which rental dwelling units are or, if the dwelling units
27 have been vacated or demolished in the five-year period preceding
28 the application, have been subject to a recorded covenant,
29 ordinance, or law that restricts rents to levels affordable to persons
30 and families of lower or very low income; subject to any other
31 form of rent or price control through a public entity's valid exercise
32 of its police power; or occupied by lower or very low income
33 households, unless the proposed housing development replaces
34 those units, and either of the following applies:

35 (i) The proposed housing development, inclusive of the units
36 replaced pursuant to this paragraph, contains affordable units at
37 the percentages set forth in subdivision (b).

38 (ii) Each unit in the development, exclusive of a manager's unit
39 or units, is affordable to, and occupied by, either a lower or very
40 low income household.

1 (B) For the purposes of this paragraph, “replace” shall mean
2 either of the following:

3 (i) If any dwelling units described in subparagraph (A) are
4 occupied on the date of application, the proposed housing
5 development shall provide at least the same number of units of
6 equivalent size or type, or both, to be made available at affordable
7 rent or affordable housing cost to, and occupied by, persons and
8 families in the same or lower income category as those households
9 in occupancy. For unoccupied dwelling units described in
10 subparagraph (A) in a development with occupied units, the
11 proposed housing development shall provide units of equivalent
12 size or type, or both, to be made available at affordable rent or
13 affordable housing cost to, and occupied by, persons and families
14 in the same or lower income category in the same proportion of
15 affordability as the occupied units. All replacement calculations
16 resulting in fractional units shall be rounded up to the next whole
17 number. If the replacement units will be rental dwelling units,
18 these units shall be subject to a recorded affordability restriction
19 for at least 55 years. If the proposed development is for-sale units,
20 the units replaced shall be subject to paragraph (2).

21 (ii) If all dwelling units described in subparagraph (A) have
22 been vacated or demolished within the five-year period preceding
23 the application, the proposed housing development shall provide
24 at least the same number of units of equivalent size or type, or
25 both, as existed at the highpoint of those units in the five-year
26 period preceding the application to be made available at affordable
27 rent or affordable housing cost to, and occupied by, persons and
28 families in the same or lower income category as those persons
29 and families in occupancy at that time, if known. If the incomes
30 of the persons and families in occupancy at the highpoint is not
31 known, then one-half of the required units shall be made available
32 at affordable rent or affordable housing cost to, and occupied by,
33 very low income persons and families and one-half of the required
34 units shall be made available for rent at affordable housing costs
35 to, and occupied by, low-income persons and families. All
36 replacement calculations resulting in fractional units shall be
37 rounded up to the next whole number. If the replacement units will
38 be rental dwelling units, these units shall be subject to a recorded
39 affordability restriction for at least 55 years. If the proposed

1 development is for-sale units, the units replaced shall be subject
2 to paragraph (2).

3 (C) Paragraph (3) of subdivision (c) does not apply to an
4 applicant seeking a density bonus for a proposed housing
5 development if his or her application was submitted to, or
6 processed by, a city, county, or city and county before January 1,
7 2015.

8 (d) (1) An applicant for a density bonus pursuant to subdivision
9 (b) may submit to a city, county, or city and county a proposal for
10 the specific incentives or concessions that the applicant requests
11 pursuant to this section, and may request a meeting with the city,
12 county, or city and county. The city, county, or city and county
13 shall grant the concession or incentive requested by the applicant
14 unless the city, county, or city and county makes a written finding,
15 based upon substantial evidence, of any of the following:

16 (A) The concession or incentive ~~is not required in order~~ *does*
17 *not reduce the cost of development* to provide for affordable
18 housing costs, as defined in Section 50052.5 of the Health and
19 Safety Code, or for rents for the targeted units to be set as specified
20 in subdivision (c).

21 (B) The concession or incentive would have a specific adverse
22 impact, as defined in paragraph (2) of subdivision (d) of Section
23 65589.5, upon public health and safety or the physical environment
24 or on any real property that is listed in the California Register of
25 Historical Resources and for which there is no feasible method to
26 satisfactorily mitigate or avoid the specific adverse impact without
27 rendering the development unaffordable to low- and
28 moderate-income households.

29 (C) The concession or incentive would be contrary to state or
30 federal law.

31 (2) The applicant shall receive the following number of
32 incentives or concessions:

33 (A) One incentive or concession for projects that include at least
34 10 percent of the total units for lower income households, at least
35 5 percent for very low income households, or at least 10 percent
36 for persons and families of moderate income in a common interest
37 development.

38 (B) Two incentives or concessions for projects that include at
39 least 20 percent of the total units for lower income households, at
40 least 10 percent for very low income households, or at least 20

1 percent for persons and families of moderate income in a common
2 interest development.

3 (C) Three incentives or concessions for projects that include at
4 least 30 percent of the total units for lower income households, at
5 least 15 percent for very low income households, or at least 30
6 percent for persons and families of moderate income in a common
7 interest development.

8 (3) The applicant may initiate judicial proceedings if the city,
9 county, or city and county refuses to grant a requested density
10 bonus, incentive, or concession. If a court finds that the refusal to
11 grant a requested density bonus, incentive, or concession is in
12 violation of this section, the court shall award the plaintiff
13 reasonable attorney's fees and costs of suit. Nothing in this
14 subdivision shall be interpreted to require a local government to
15 grant an incentive or concession that has a specific, adverse impact,
16 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
17 upon health, safety, or the physical environment, and for which
18 there is no feasible method to satisfactorily mitigate or avoid the
19 specific adverse impact. Nothing in this subdivision shall be
20 interpreted to require a local government to grant an incentive or
21 concession that would have an adverse impact on any real property
22 that is listed in the California Register of Historical Resources.
23 The city, county, or city and county shall establish procedures for
24 carrying out this section, that shall include legislative body
25 approval of the means of compliance with this section.

26 (4) *The city, county, or city and county shall bear the burden*
27 *of proof for the denial of a requested concession or incentive.*
28 *Denial of a requested concession or incentive shall be deemed to*
29 *have exhausted an applicant's administrative remedies.*

30 (e) (1) In no case may a city, county, or city and county apply
31 any development standard that will have the effect of physically
32 precluding the construction of a development meeting the criteria
33 of subdivision (b) at the densities or with the concessions or
34 incentives permitted by this section. An applicant may submit to
35 a city, county, or city and county a proposal for the waiver or
36 reduction of development standards that will have the effect of
37 physically precluding the construction of a development meeting
38 the criteria of subdivision (b) at the densities or with the
39 concessions or incentives permitted under this section, and may
40 request a meeting with the city, county, or city and county. If a

1 court finds that the refusal to grant a waiver or reduction of
 2 development standards is in violation of this section, the court
 3 shall award the plaintiff reasonable attorney's fees and costs of
 4 suit. Nothing in this subdivision shall be interpreted to require a
 5 local government to waive or reduce development standards if the
 6 waiver or reduction would have a specific, adverse impact, as
 7 defined in paragraph (2) of subdivision (d) of Section 65589.5,
 8 upon health, safety, or the physical environment, and for which
 9 there is no feasible method to satisfactorily mitigate or avoid the
 10 specific adverse impact. Nothing in this subdivision shall be
 11 interpreted to require a local government to waive or reduce
 12 development standards that would have an adverse impact on any
 13 real property that is listed in the California Register of Historical
 14 Resources, or to grant any waiver or reduction that would be
 15 contrary to state or federal law.

16 (2) A proposal for the waiver or reduction of development
 17 standards pursuant to this subdivision shall neither reduce nor
 18 increase the number of incentives or concessions to which the
 19 applicant is entitled pursuant to subdivision (d).

20 (f) (1) For the purposes of this chapter, "density bonus" means
 21 a density increase over the otherwise maximum allowable *gross*
 22 residential density as of the date of application by the applicant to
 23 the city, county, or city and county. The applicant may elect to
 24 accept a lesser percentage of density bonus, *including, but not*
 25 *limited to, no increase in density*. The amount of density bonus to
 26 which the applicant is entitled shall vary according to the amount
 27 by which the percentage of affordable housing units exceeds the
 28 percentage established in subdivision (b).

29 (1)

30 (A) For housing developments meeting the criteria of
 31 subparagraph (A) of paragraph (1) of subdivision (b), the density
 32 bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26

1	15	27.5
2	17	30.5
3	18	32
4	19	33.5
5	20	35

~~(2)~~

(B) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

~~(3)~~

(C) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

~~(4)~~

(D) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14

1	20	15
2	21	16
3	22	17
4	23	18
5	24	19
6	25	20
7	26	21
8	27	22
9	28	23
10	29	24
11	30	25
12	31	26
13	32	27
14	33	28
15	34	29
16	35	30
17	36	31
18	37	32
19	38	33
20	39	34
21	40	35

22
23 ~~(5)~~

24 (E) All density calculations resulting in fractional units shall be
25 rounded up to the next whole number. The granting of a density
26 bonus shall not *require, or* be interpreted, in and of itself, to require
27 a general plan amendment, local coastal plan amendment, zoning
28 change, or other discretionary approval.

29 (2) *The term “density bonus” shall also include any incentive*
30 *or concession, or waiver or reduction of development standard,*
31 *provided to the applicant for the production of housing units and*
32 *child care facilities, as provided in this section.*

33 (g) (1) When an applicant for a tentative subdivision map,
34 parcel map, or other residential development approval donates
35 land to a city, county, or city and county in accordance with this
36 subdivision, the applicant shall be entitled to a 15-percent increase
37 above the otherwise maximum allowable residential density for
38 the entire development, as follows:

39

40	Percentage Very Low Income	Percentage Density Bonus
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1	10	15
2	11	16
3	12	17
4	13	18
5	14	19
6	15	20
7	16	21
8	17	22
9	18	23
10	19	24
11	20	25
12	21	26
13	22	27
14	23	28
15	24	29
16	25	30
17	26	31
18	27	32
19	28	33
20	29	34
21	30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less

1 than 10 percent of the number of residential units of the proposed
2 development.

3 (C) The transferred land is at least one acre in size or of
4 sufficient size to permit development of at least 40 units, has the
5 appropriate general plan designation, is appropriately zoned with
6 appropriate development standards for development at the density
7 described in paragraph (3) of subdivision (c) of Section 65583.2,
8 and is or will be served by adequate public facilities and
9 infrastructure.

10 (D) The transferred land shall have all of the permits and
11 approvals, other than building permits, necessary for the
12 development of the very low income housing units on the
13 transferred land, not later than the date of approval of the final
14 subdivision map, parcel map, or residential development
15 application, except that the local government may subject the
16 proposed development to subsequent design review to the extent
17 authorized by subdivision (i) of Section 65583.2 if the design is
18 not reviewed by the local government prior to the time of transfer.

19 (E) The transferred land and the affordable units shall be subject
20 to a deed restriction ensuring continued affordability of the units
21 consistent with paragraphs (1) and (2) of subdivision (c), which
22 shall be recorded on the property at the time of the transfer.

23 (F) The land is transferred to the local agency or to a housing
24 developer approved by the local agency. The local agency may
25 require the applicant to identify and transfer the land to the
26 developer.

27 (G) The transferred land shall be within the boundary of the
28 proposed development or, if the local agency agrees, within
29 one-quarter mile of the boundary of the proposed development.

30 (H) A proposed source of funding for the very low income units
31 shall be identified not later than the date of approval of the final
32 subdivision map, parcel map, or residential development
33 application.

34 (h) (1) When an applicant proposes to construct a housing
35 development that conforms to the requirements of subdivision (b)
36 and includes a child care facility that will be located on the
37 premises of, as part of, or adjacent to, the project, the city, county,
38 or city and county shall grant either of the following:

1 (A) An additional density bonus that is an amount of square
2 feet of residential space that is equal to or greater than the amount
3 of square feet in the child care facility.

4 (B) An additional concession or incentive that contributes
5 significantly to the economic feasibility of the construction of the
6 child care facility.

7 (2) The city, county, or city and county shall require, as a
8 condition of approving the housing development, that the following
9 occur:

10 (A) The child care facility shall remain in operation for a period
11 of time that is as long as or longer than the period of time during
12 which the density bonus units are required to remain affordable
13 pursuant to subdivision (c).

14 (B) Of the children who attend the child care facility, the
15 children of very low income households, lower income households,
16 or families of moderate income shall equal a percentage that is
17 equal to or greater than the percentage of dwelling units that are
18 required for very low income households, lower income
19 households, or families of moderate income pursuant to subdivision
20 (b).

21 (3) Notwithstanding any requirement of this subdivision, a city,
22 county, or city and county shall not be required to provide a density
23 bonus or concession for a child care facility if it finds, based upon
24 substantial evidence, that the community has adequate child care
25 facilities.

26 (4) “Child care facility,” as used in this section, means a child
27 day care facility other than a family day care home, including, but
28 not limited to, infant centers, preschools, extended day care
29 facilities, and schoolage child care centers.

30 (i) “Housing development,” as used in this section, means a
31 development project for five or more residential units, *including*
32 *mixed-use developments as defined in Section 65950*. For the
33 purposes of this section, “housing development” also includes a
34 subdivision or common interest development, as defined in Section
35 4100 of the Civil Code, approved by a city, county, or city and
36 county and consists of residential units or unimproved residential
37 lots and either a project to substantially rehabilitate and convert
38 an existing commercial building to residential use or the substantial
39 rehabilitation of an existing multifamily dwelling, as defined in
40 subdivision (d) of Section 65863.4, where the result of the

1 rehabilitation would be a net increase in available residential units.
2 For the purpose of calculating a density bonus, the residential units
3 shall be on contiguous sites that are the subject of one development
4 application, but do not have to be based upon individual
5 subdivision maps or parcels. The density bonus shall be permitted
6 in geographic areas of the housing development other than the
7 areas where the units for the lower income households are located.

8 (j) (1) The granting of a concession or incentive shall not
9 *require or* be interpreted, in and of itself, to require a general plan
10 amendment, local coastal plan amendment, zoning change, *special*
11 *studies*, or other discretionary approval. This provision is
12 declaratory of existing law.

13 (2) Except as provided in subdivisions (d) and (e), the granting
14 of a density bonus shall not *require or* be interpreted to require
15 the waiver of a local ordinance or provisions of a local ordinance
16 unrelated to development standards.

17 (k) For the purposes of this chapter, concession or incentive
18 means any of the following:

19 (1) A reduction in site development standards or a modification
20 of zoning code requirements or architectural design requirements
21 that exceed the minimum building standards approved by the
22 California Building Standards Commission as provided in Part 2.5
23 (commencing with Section 18901) of Division 13 of the Health
24 and Safety Code, including, but not limited to, a reduction in
25 setback and square footage requirements and in the ratio of
26 vehicular parking spaces that would otherwise be required that
27 results in ~~identifiable, financially sufficient,~~ *identifiable* and actual
28 cost reductions, *as determined by the developer*.

29 (2) Approval of mixed-use zoning in conjunction with the
30 housing project if commercial, office, industrial, or other land uses
31 will reduce the cost of the housing development and if the
32 commercial, office, industrial, or other land uses are compatible
33 with the housing project and the existing or planned development
34 in the area where the proposed housing project will be located.

35 (3) Other regulatory incentives or concessions proposed by the
36 developer or the city, county, or city and county that result in
37 ~~identifiable, financially sufficient,~~ *identifiable* and actual cost
38 reductions, *as determined by the developer*.

39 (l) Subdivision (k) does not limit or require the provision of
40 direct financial incentives for the housing development, including

1 the provision of publicly owned land, by the city, county, or city
2 and county, or the waiver of fees or dedication requirements.

3 (m) This section does not supersede or in any way alter or lessen
4 the effect or application of the California Coastal Act of 1976
5 (Division 20 (commencing with Section 30000) of the Public
6 Resources Code).

7 (n) If permitted by local ordinance, nothing in this section shall
8 be construed to prohibit a city, county, or city and county from
9 granting a density bonus greater than what is described in this
10 section for a development that meets the requirements of this
11 section or from granting a proportionately lower density bonus
12 than what is required by this section for developments that do not
13 meet the requirements of this section.

14 (o) For purposes of this section, the following definitions shall
15 apply:

16 (1) "Development standard" includes a site or construction
17 condition, including, but not limited to, a height limitation, a
18 setback requirement, a floor area ratio, an onsite open-space
19 requirement, or a parking ratio that applies to a residential
20 development pursuant to any ordinance, general plan element,
21 specific plan, charter, or other local condition, law, policy,
22 resolution, or regulation.

23 (2) "Maximum allowable residential density" means the density
24 allowed under the zoning ordinance and land use element of the
25 general plan, or if a range of density is permitted, means the
26 maximum allowable density for the specific zoning range and land
27 use element of the general plan applicable to the project. Where
28 the density allowed under the zoning ordinance is inconsistent
29 with the density allowed under the land use element of the general
30 plan, the general plan density shall prevail.

31 (p) (1) Except as provided in paragraphs (2) and (3), upon the
32 request of the developer, a city, county, or city and county shall
33 not require a vehicular parking ratio, inclusive of handicapped and
34 guest parking, of a development meeting the criteria of subdivisions
35 (b) and (c), that exceeds the following ratios:

36 (A) Zero to one bedroom: one onsite parking space.

37 (B) Two to three bedrooms: two onsite parking spaces.

38 (C) Four and more bedrooms: two and one-half parking spaces.

39 (2) Notwithstanding paragraph (1), if a development includes
40 the maximum percentage of low- or very low income units

provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide on-site parking through

1 tandem parking or uncovered parking, but not through on-street
2 parking.

3 (5) This subdivision shall apply to a development that meets
4 the requirements of subdivisions (b) and (c), but only at the request
5 of the applicant. An applicant may request parking incentives or
6 concessions beyond those provided in this subdivision pursuant
7 to subdivision (d).

8 (6) This subdivision does not preclude a city, county, or city
9 and county from reducing or eliminating a parking requirement
10 for development projects of any type in any location.

11 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
12 city and county, or an independent consultant has conducted an
13 areawide or jurisdictionwide parking study in the last seven years,
14 then the city, county, or city and county may impose a higher
15 vehicular parking ratio not to exceed the ratio described in
16 paragraph (1), based upon substantial evidence found in the parking
17 study, that includes, but is not limited to, an analysis of parking
18 availability, differing levels of transit access, walkability access
19 to transit services, the potential for shared parking, the effect of
20 parking requirements on the cost of market-rate and subsidized
21 developments, and the lower rates of car ownership for low- and
22 very low income individuals, including seniors and special needs
23 individuals. The city, county, or city and county shall pay the costs
24 of any new study. The city, county, or city and county shall make
25 findings, based on a parking study completed in conformity with
26 this paragraph, supporting the need for the higher parking ratio.

27 *(q) Each component of any density calculation, including base*
28 *density and bonus density, resulting in fractional units shall by*
29 *separately rounded up to the next whole number. The Legislature*
30 *finds and declares that this provision is declaratory of existing*
31 *law.*

32 *(r) This chapter shall be interpreted liberally in favor of*
33 *producing the maximum number of total housing units.*

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 a local agency or school district has the authority to levy service
37 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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